

§ 1951.958

portion of the FLP payments from proceeds that may not be immediately available.

(b) *Processing.*(1) [Reserved]

(2) Interest will accrue on any principal amount set-aside at the same rate charged the non-set-aside portion. Interest will not accrue on the interest portion set-aside. Limited resource interest rate changes will affect the principal set-aside.

(3) The amount set-aside, including interest accrual on any principal set-aside, will be due on or before the final due date of the loan.

(4) If the borrower is not current on all FLP loans when Exhibit A of Agency Instruction 1951-T (available in any FSA office) is executed, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all of their assets except:

(i) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

(ii) When the property could have significant environmental problems or costs;

(iii) When the Agency cannot obtain a valid lien;

(iv) When the property is the borrower's personal residence and appurtenances; provided:

(A) They are located on a separate parcel; and

(B) The real estate that serves as collateral for the Agency loan plus crops and chattels are valued at greater than or equal to 150 percent of the unpaid balance due on the loan.; or

(v) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation or for necessary living expenses, retirement accounts, personal vehicles necessary for family living or farm operating purposes, household goods and small tools and small equipment such as hand tools and lawn mowers, and other similar items.

(5)-(6) [Reserved]

(7) Payments applied to the amount set-aside will be applied first to interest and then to principal. If more than one installment is set-aside on the loan, payments will be applied to the oldest installment set-aside until paid

7 CFR Ch. XVIII (1-1-07 Edition)

in full, before applying payments to the second installment set-aside.

(c) *Adverse determination.* If the borrower becomes more than one installment behind on any FLP loan while processing the DSA request, or while an appeal is being considered, and the second installment cannot be paid current prior to exhibit A of FmHA Instruction 1951-T (available in any FSA office) being signed, the DSA request will be denied.

[60 FR 46756, Sept.8, 1995, as amended at 62 FR 41253, Aug. 1, 1997; 65 FR 31250, May 17, 2000; 68 FR 55303, Sept. 25, 2003]

§ 1951.958 Cancellation and reversal of DSA.

(a) *Reasons for cancellation.* The set-aside may be reversed and exhibit A of FmHA Instruction 1951-T cancelled under the following described situations:

(1) The loan is later restructured with primary loan servicing, (the total unpaid balance must be restructured);

(2) If prior to the first scheduled installment due date after set-aside, the servicing official determines that the current borrower, if delinquent, would qualify for a writedown or buyout in accordance with subpart S of this part; or

(3) When it has been determined that the borrower was provided unauthorized DSA assistance. (The set-aside will be cancelled after all appeal rights are exhausted. The set-aside will be removed from the account and the payment terms of the original promissory note will be retained as if DSA was never granted. Borrowers financially distressed or delinquent after reversal of the set-aside will be serviced in accordance with subpart S of this part).

(b) [Reserved]

[60 FR 46756, Sept. 8, 1995, as amended at 62 FR 10157, Mar. 5, 1997]

§ 1951.959 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if it is determined that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise